

192

(Laur)

File No. 37-28

Serial Nos. 1-5

Previous References

L.B. 19-28, 1.7.7.

11 19-21, 4-6 48

11 62-26, 2.7 4323

Later References

Laur 85-30, 344

✓ B D (26)

General and Revenue Secretariat.

Serial Nos. 5

Part B for Febry 1929.

SUBJECT

D.S. 7928-29 Air Comd - Ban
Lanka to p/a & others 1st Ch Secy.

5,

to the P.P. Ban
No. 4128 of 2.2.29

37. 9pm/1
6/2/29

It was the written statement & shall
that drafts of such statements
shall be sent to the P.P. at
15 days before hand.

O S 7 of 28¹⁰²⁸ District Court Bangalore
Venkatappa & others v Chief Sec

App. F. III-2]

General and Revenue
Secretariat.

Law File No. 39 of 1928

Serial
No.

Summons & A ut Copy from Dist Judge
in the above case

The suit is for a declaration of the
plaintiff's right to stand for election
to the District Board Bangalore to be held on
10th Sept^r 1928 & for an injⁿ restraining the election
till the disposal of the suit. & Costs.

The plaintiffs have put in a petition
before the Court on which final orders are
~~not~~ alleged not to have been passed. The
d.s.g branch may be requested to put up
the papers.

Meanwhile this may kindly be marked &
the Chief Secy for signature to the Summons.

The suit is posted to 12-11-1928

MP

8/10/28

Ch. Secy

8/10

CH. SECRETARY
9 OCT. 1928

MP 9/1
Dft 2
9/10

Law
9/10/28

Two drafts, one to dt Insp reposing the
summons & the other to PPr requesting him
to appear on behalf of Govt, put up, for approval

MP

9/10/28
10/10

Secy
10/10

NOTE—Contn. Sheet.

Plot More

632
P. 1752
Ap

General and Revenue
Secretariat.

File No. 39 of 192

Serial
No 2

To the S. L. Hore,
DOP 220, 11-10;
Returns the summons with an
ack. of service

To the P. Pr Banga
DOP 2202 28;

Request to appear on behalf of
Govt and take an affidavit before
a defence statement etc

The L.S. & branch may be requested to
put the connected records.

GEN. & REV. SECTY.
17 OCT. 1923
L.S. & BRANCH

me
16/10 To the L.S. & Pr for favor of compliance
16/10

1752 Mr S

FL 4. 16/10
FL 2
H 9
H 10

For the papers required please
see L.B. 19-28 SL 6 and ~~19-28 SL~~
and L.B. 19-28 SL 1, 7 and 9
and L.B. 62-26 SL 29, 0 and 323
17/10 18/10 P. H. R. V

17/10

The P.P. has been requested to
prepare a ~~drawings~~ with instructions
from D. C. Bangalore. The same may be
awaited.

my
12/10/23

Serial
No.

From the Dy Commr, Bangalore

No C 2-197/28-29 dated 31-10-28.

Re: ~~that~~ he has received
summons from the District Judge
in case C no 7/28-29 making the
Chief Judge and Dy Commr, Bangal
as parties to the case and that
he has requested the Public Pro
Secutor to defend the case in
the District Court on behalf of
Govt.

The suit is (against the
deputy commissioner of the
Bangalore Dt that Messrs Venk
ppa and Shontanya are dis
qualified for standing for
election to the Bangalore Dt Bd.
2) These gentlemen were elected
to the Dt Bd when it was constituted
in ... the Mysore Dt Bd's Regn,
but their election was set aside by
the Dt Judge. For the bye-election
held in consequence, the Dy Commr
declared these gentlemen as dis-

1927

General and Financial
Secretariat.

File No. 19 of 1927.

Serial
No.

Many court reports that he had
appeal the Public Prosecutor to defend
the case. The chief Secy is also
one of the parties and action
is being taken on the summons
received in the matter in the
Protection Branch. The
file may be sent to Protection Br
for further action.

2/11/28 K. S. 11. (Protection Branch) 28/3/28

The P.P. has been requested to prepare
a draft w. and send it for approval of
A.C. Action is being taken in the time

10/4
3/11/28
4/11

9/11
5/11

P 1632
L 1752

3360

App. F. III-2]

General and Revenue
Secretariat.

File No. 39 of 1928.

Serial
No.

4. From the Public Prosecutor

No 358/28.29 dated 28.1.29.

Forwarding draft W.S. with
connected records for approval.

Copy of plaint is flapped C. The suit is
for a declaration declaring that the plaintiffs
were eligible to stand for the fresh election ^{By them} ~~to~~
for the District Board & for an injunction restraining
the depts from holding the election without allowing
the plffs to compete. & for costs =

The plaintiffs' case is that they stood for
election from the Devanahalli taluk & were duly
elected but that it was set aside under Sec
14 of the Dist. Bd. Regn by the Dist. Judge on
account of corrupt practices by the plaintiffs.
A fresh election was thereafter held & the
D.C. rejected the nomination papers of the
plff on the ground that under Sec 14 (3) of
the D.B. Regn the Dist Judge, must be
presumed to have disqualified the plffs
to stand for the election. An appeal was
filed to the Govt. & the order of the D.C.
was confirmed as per the opinion of the
Legal R.

Flap E

This suit was filed before the Govt. orders - no notice of suit & no report
has been given to the Ch. Secy. Through the Ch.

NOTE—Contn. Sheet.

Serial
No.

a notice was given to the 2nd deft viz the
D.C. Shree.

The draft was sent by the P.P. for
approval of L.R. meets the plaintiff's case
on merits, i.e.; as to the legality of the
D.C.'s ~~order~~ interpretation of the District Judge's
order. The suit against the 1st deft namely the
Chief Secy, cannot stand since the statutory
notice is not given - This point however is not
taken in the draft W.S.

It is also for consideration whether the suit
as framed can now stand since it is
one for a bare declaration, on account of the
fresh election having now taken place without
the plaintiff's being allowed to complete

Prop

31.1.29

The suit is not maintainable against
the 1st deft and 2 plaintiffs. —

1. For want of notice under S. 80
of the Civ. P. C.
2. The present suit ~~cannot be brought~~ ^{is not one that}
~~under~~ is contemplated under Regs
VII of 1923. And suit is also not
provided for in the W.P. Act 1927.
On behalf of
the 2nd deft a plea has been
raised that the suit as framed is not
maintainable.

The cause of action is also not correct
stated in the plaint.

The W.P. may be no-drafted.

P. M.
31/1

These two objections
are the requisites
to be satisfied

Serial
No.

Draft Wn the statement put up. After approval, it
~~was~~ to be got typed and ~~signed~~ marked by
the signature of the Chief Secretary.

Prof

1.2.29

get it typed & signed by the
Secy to forward to P.P.
Wham's copy. P.M.
1/2

Date of hearing }
4-2-29 }

For favour of kindly marking to the Chief
Secy for signature.

Prof

1.2.29

Ch. Secy)

P.P. 1/2

Issue
P.M.
1/2

CHIEF SECRETARY
1 FEB. 1929

Draft to P.P. put up

Prof

2.2.29
for
1/2

Issue
P.M.
1/2

5 To, The P.P. Bangalore
P 11128/Law 39-28-5 dated
2.2.29 returning the records &
the W.S. duly signed by Ch. Secy &
intimating that in future such reply
shd be made at least 15 days
before the date of 11g.

B
Prof
5/4/29

753

Perm. Por 6/10

Baugalone
5-10-28-
1632
p 28

Law 39.28-1

From The District Judge
Baugalone Division
To The Chief Secretary to the
Government of Bombay
Sir,

192

I have the honor to forward herewith defendants

Summons in duplicate in No.

of 192, in the file of this Court, and to request, that you will be so good as to
cause the duplicate to be served on the individual therein named, and the original
returned to this Court with due endorsement of service thereon, on or before the date
of hearing. (12-11-28)

A sum of Rs.

is herewith sent, being

witness-batta

I have the honor to be,

Sir,

Your most obedient servant.

WD 01181---GPB---9,000---20-12-27

By order
H. Subramanyam
Secy. Shri. S. S. S. S. S.

IN THE COURT OF

the District Judge Bangalore

SUIT NO. *7*

OF *1928-1929*

Moudarya & Another

*1) The Chief Secretary
Govt. of Mysore*

*2) The Deputy Commissioner
Bangalore District*

Plaintiff

vs.

Defendant

To

WHEREAS

have *the plaintiff* *has* *instituted a suit against you for as per plaint (Copy attached)*

you are hereby summoned to appear in this Court in person or by a pleader duly instructed, and able to answer all material questions relating to the suit, or who shall be accompanied by some person able to answer all such questions, on the *12th* day of *November 1928*, at *11 o'clock* in the *fore* noon, to answer the claim; and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce on that day all the witnesses upon whose evidence and all the documents upon which you intend to rely in support of your defence.

Take notice that, in default of your appearance on the day beforementioned, the suit will be heard and determined in your absence.

Given under my hand and the seal of the Court, this
day of *12/11/28* 192*8*



By order
S. V. Sahasrabudhe
Judge

Notice.—1. Should you apprehend your witnesses will not attend of their own accord, you can have a summons from this Court to compel the attendance of any witness and the production of any document that you have a right to call upon the witness to produce on supplying to the Court and on depositing the necessary expenses.

2. If you admit the claim, you should pay the money into Court together with the costs of the suit, to avoid execution of the decree, which may be against your person or property or both.

In the Court of the District Judge, Bangalore.

O. S. No. of 28-29.

Plaintiffs.

Vs.

Defendants.

- | | |
|---|---|
| <p>1. B. Venkatappa, Son of Byanna, aged about 30 years, Merchant and Landlord, Chickana halli, Devanahalli Taluk.</p> <p>2. S. Thontarya, aged about 40, Son of Landlord, Hunsamarna halli, Devanahalli Taluk.</p> | <p>1. The Chief Secretary to the Govt. of Mysore, Bangalore.</p> <p>2. The Deputy Commissioner, Bangalore District.</p> |
|---|---|

Under Order VII, R. 1 of the C. P. Code the plaintiffs, abovenamed, state as follows:-

1. That the plaintiffs were two of the candidates that stood for election to the Bangalore District Board held on 23-12-26 and they were declared duly elected at the said Election.

2. That the competing candidates applied in Is. No. 89 of 26-27 on the file of the District Judge, Bangalore Division to set aside the election on the ground among others that the plaintiffs were guilty of corrupt practice within the meaning of Section 14 of the Local Boards Regulation and further prayed that they must be disqualified to compete at future elections.

3. That the learned District Judge after enquiry into the case held that the alleged corrupt practice on the part of the 1st plaintiff was proved and consequently set aside the election of both the plaintiffs and directed a fresh election. As regards the prayer disqualifying the plaintiffs, the learned District Judge refused in express terms to pass such

such an order.

4. That a re-election was therefore notified to be held on the 10th September 1928 and the plaintiffs also sent their nomination papers along with others before the due date; but after the expiry of the time limited for sending the nomination papers the 2nd defendant sent endorsements to the plaintiffs that he had disqualified them by reason of the order of the District Judge to compete the ensuing election.

5. That this order of the 2nd defendant excluding the plaintiffs from the election was unauthorised and illegal, as under the law in force an order of disqualification can be passed only by the District Judge and no other and he had refused to pass such an order as already stated.

6. That the plaintiffs accordingly sent a notice to the second defendant, pointing out to him the error of his order and asking him to include them in the list and notifying that otherwise they were filing a suit for the reliefs they were entitled to in the premises.

7. That in reply thereto, the 2nd defendant informed the plaintiffs that he would not reconsider his order and that they might appeal to the Government against his order.

8. That the plaintiffs thereupon applied to the Government to set aside the 2nd defendant's order and to include them in the list of candidates for

for election, informing at the same time that if their prayer was not granted, the same might be treated as notice of suit.

9. That the 1st defendant has not passed orders on the plaintiffs' application as aforementioned and as the election will take place on the 10th Sept. 28 ^{included} without the plaintiffs' being, among the competitors at the election, this suit is filed.

10. That the cause of action accrued to the plaintiffs on 7/8/28 being the date of the order of the 2nd defendant, excluding the plaintiffs from the election within the jurisdiction of this court.

11. That the value of the suit for court fee and jurisdiction is the value of the consequential relief prayed for in the suit which is assessed at Rs. 100/-.

12. That the plaintiffs pray that a decree may be passed (1) declaring that the plaintiffs' nomination papers were wrongly rejected and that the order of the 2nd defendant disqualifying the plaintiffs is null and void, (2) restraining the 2nd defendant by an injunction from holding an election as notified on the 10th Sept. 1928 without the plaintiffs being among the competitors for election and compelling him to hold the election with the plaintiffs as candidates, and (3) directing the defendants or either of them to pay the plaintiffs costs of the suit, granting such other relief as the plaintiffs may be found to be entitled to in the circumstances of the case.

Plt. for

Adv. for Plt.

We, the plaintiffs, abovesigned, do hereby declare that what is stated above is true to the best of our knowledge,
Bangalore,

10th Sept. 1928

SUBJECT.....
.....
.....

Section *Law*
File No. *39-28*
Serial No. *2*

Diary No. of letter replied to.....

No. *2201 (1)*

General and Revenue Secretariat
()
the 192

To
The District Judge
Mysore Bangalore

Date of issue..... *11/10/28* *Sir,*

Signed by..... *WKS*
I am directed to return
herewith the Summons in original
in O.S. 7 of 28-29 (Venkataswami
and others v Chief Secretary to Govt)
with due endorsement of service
thereon.

I have etc

List of enclosures.....

Copied by..... *Copy*

Examined by.....

m
For Secy to Govt
Law Dept
9.10.28
Am
10/10

over

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

General and Revenue Secretariat

()
the 192

Date of issue.....

Signed by.....

List of enclosures.....

Copied by.....

Examined by.....

Section *San*
File No. 39-28
Serial No. 3

No. *220-41*

To
The Public Prosecutor
Bangalore.

Sci.

~~Shree K. K. K.~~ I am directed

herein
to forward a copy of the plaint
in O.S. 7 of 1928-29 (Venkataswami
& others v Chief Secretary to Govt)
in the District Court, Bangalore,
which is fixed to 12th Nov^r 1928
for hearing and to request
you to appear on behalf of the
Government and take an

adjournment to file the defence^{State};

a draft of which you may
kindly prepare ~~in~~ after
over

obtaining instructions from
the Deputy Commissioner, Bang
who has been made ~~is~~ the
2nd defendant in the suit

The draft written statement
may in the usual course be
sent to ~~the~~ me for ~~ap~~
scrutiny and approval

I have etc

Sh
for Secy to Govt
Law Dept
Mf
9.10.28
me
10/10

In all future communications
please quote—

No. G. 2-197/28-29.
Enc. (one)

OFFICE OF THE DEPUTY COMMISSIONER,
BANGALORE DISTRICT.

Dated Bangalore, the 31st October 1928.

FROM

B. HEERLAKAR ESQ., B.A., LL.B.,
Deputy Commissioner,
Bangalore District.

TO

N. Madhava Rao, Esq., B.A., B.L.,
Chief Secretary to Government
of Mysore, Bangalore.

SIR,

Subject:— Suit against Government. Against Declaration that
Messrs. Venkatappa and Thontarya are disqualified for standing
for election to District Board, Bangalore.

I have the honour to state that I have received summons from
District Judge in case C. No. 7/28-29 making the Chief Secretary
to Government and the Deputy Commissioner, Bangalore District as
parties to the case. I have requested the Public Prosecutor to
defend the case in the District Court on behalf of Government.

The election of Messrs. B. Venkatappa and Thontarya as members
of the Bangalore District Board was set aside by the District Judge
in July 1928 and fresh elections were ordered by me in accordance
with provisions of the District Board Regulation & Rules there-
under. The two gentlemen stood up for election and they were
declared ineligible for the bye election under the rules. A copy
of the endorsement^{issued to them} is herein enclosed. The results of the Bye-
elections were reported to Government and they have in their Noti-
fication No. L. 2619/L.B. 19-28-9 dated 5-10-1928 declared that Mr.
D. Srikanta Rao and Mr. D.S. Hanumantha Rao as elected as members to
the Bangalore District Board.

I have the honour to be,
Sir,
Your most obedient servant,

[Signature]

Deputy Commissioner
BANGALORE DISTRICT

[Initials]

*Work up
2 on 10/11/28
2/11/28*

2/11/28

*Put up
with
P. 1632-2
P. 1632-2*

C.2-197/28-29.

Office of the Deputy Commissioner,
Bangalore District,
Dated Bangalore 6th August 1928.

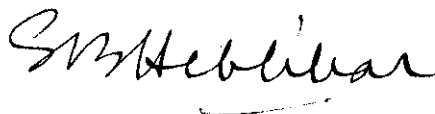
Application dated ²⁷⁻⁸⁻¹⁹²⁸1-8-1928 from Mr. ^{Venkatappa}Thontarya signifying his intention to stand as candidate from the Devanahalli Taluk Constituency to the Bangalore District Board for the election proposed to be held at Devanahalli on 10th September 1928.

Endorsement.

Messrs. D. Srikanta Rao and 9 others filed an application dated 20-1-1927 under Section 14 of the District Board Regulation to the District Judge, Bangalore for setting aside the election of Messrs B. Venkatappa and L. Thontarya on account of corrupt practices. The District Judge enquired into the complaint and set aside the election under Section 14 (2) of the District Board Regulation. The decision carries with it the disqualification for standing ~~thm~~ as candidate for the fresh election to be held subsequently. His candidature cannot therefore be accepted

Sd/-G.B. Heblikar,
Deputy Commissioner,
Bangalore District.

"Copy"



Deputy Commissioner,
BANGALORE DISTRICT.

me

SS/-.

no. 358/28-29
and 1 file.

From,

The public prosecutor,
Bangalore

Bangalore

28.1.1929

3360/28

To The Legal Remembrancer

Law 39-28-19

and Secretary to Government,
Law Department,

Bangalore

Sir,

Re: on 7/28-29 plaintiffs Venkatappa
and another.

I have the honor to send herewith
the draft written statements in the
above case for your approval. The case is
listed to 4/2/1929. The entire records are
sent herewith.

I have the honor to be,
Sir,
your most obedient servant,

B. M. D. D. D.

public prosecutor

Bangalore

In the court of the District Judge, Bangalore
on 7/28-29

Plaintiffs

1. Venkatappa
2. S. Shontarya

Defendants

1. Chief Secretary
2. Deputy Commissioner
Bangalore

Order VIII rule 1 C P C

written statement of defendants 1 + 2.

1. The defendants admit the allegations in para 1 + 2 of the plaint.

2. The first portion of the 3rd para is admitted. As regards the latter portion the defendants submit that the prayer in the petition namely that the present plaintiffs should be excluded for five years was negatively by this court.

3. The allegations in para 4 are true. The 2nd defendant has disqualified the present plaintiffs as a consequence of and following the order of this court which found that the present plaintiffs had committed corrupt practice with a view to succeed in the election and set aside the election under S. 14(2) a

of the Mysore District Boards Regulation IV of 1926. When once the Court sets aside an election on the ground of corrupt practice the penalty prescribed under S. 14(3) a namely - disqualification for the purposes of the next election follows as a matter of course. Thus the section being mandatory it is to be presumed that that was the intention of this Court and the 2nd defendant has acted in accordance with law.

5. The defendants do not admit the allegations in para 5

6. The defendants admit the allegations in para 6, 7, 8 and 9

7. The defendants do not admit the allegations in para 10, 11 and 12. The suit is not maintainable. There is no cause of action against any of the defendants and the plaintiffs are not entitled to any of the relief prayed for in the plaint

8. The defendants do not admit any of the allegations in the plaint which are not expressly admitted herein.

9. The defendants pray that the suit may be dismissed with costs.

draft

B. M. Deva.
public prosecutor,
Bangalore

SUBJECT.....

Diary No. of letter replied to.....

Section *Lam*File No. *39-28*Serial No. *5*No. *p 4128*

General and Revenue Secretariat

()

the

192

To

*The Public Prosecutor
Bangalore*Date of issue.....*2/2/29**Sir,**am directed
I have the honour to*Signed by *M. N. S. Tharaman**return herewith the written**Statement in O.S. 7 of 1928-29,**(Venkatasappa & another vs**Chief Secy & Deputy Comr) on the**file of the District Judge, Bangalore,**dated, signed by the Chief**Secretary for being filed**in Court on 4th Febr 1929*

List of enclosures.....

Copied by.....*2/2**I am to state that hereafter**groups of**Such ~~statements~~ ^{statements} should be**sent ^{to this office} at least**sent at least fifteen do.**over*

before ^{so that there may be sufficient time} ~~the date of hearing~~
_{hand}

~~to allow sufficient~~

time for scrutiny. The records sent
with your letter no: 358 of 25.12.29 dated 28th Jan 29
are herewith returned - I have etc

g/h

For Secy to Govt

copy

Law Dept

2.2.29

for

2/2

In the Court of the District Judge, Bangalore.

O. S. 7 of 1928-29

Plaintiffs

- 1) B. Venkataappa
- 2) S. Thontadaya

Defendants

- 1) The Chief Secretary to Government
- 2) The Deputy Commissioner Bangalore.

Under order 8 rule 1 of the Civil Procedure Code, the defendants abovenamed, file the following written statement.

1) The suit is not maintainable against the 1st defendant, for want of notice under sec 80 of the Code of Civil Procedure.

2) The suit is not one of those provided for in section 2 of Regulation VII of 1923 or in any other enactment in force in Mysore and consequently ~~this Court has no jurisdiction to take cognisance~~ cannot be taken cognisance of by this Hon'ble Court.

3) The defendants deny the allegations in para 5 of the plaint and affirm that

the action of the 2nd defendant in not accepting the candidature of the plaintiffs for the fresh election, is perfectly legal and justified.

4) The plaintiffs have no cause of action against any of the defendants and it is not-correctly stated in para 10 of the plaint.

5) The suit as ^{now} framed is not ~~now~~ maintainable under section 42 of the Specific Relief Act.

6) The plaintiffs are not entitled to any of the reliefs claimed.

—wherefore it is prayed that the suit be dismissed with costs.
The defts pray that this Hon^{ble} Court may be pleased to try the question of the maintainability of the suit in the first instance.

We the defendants abovesigned do hereby declare that what is stated above is true to the best of our knowledge.

IN THE COURT OF THE DISTRICT JUDGE, BANGALORE.

O.S. 7 of 1928 - 29.

Plaintiffs:

1. M.Venkatappa
2. S.Thontarya.

Defendants.

1. The Chief Secretary to Government.
2. The Deputy Commissioner, Bangalore.

Under Order 8 rule 1 of the Civil Procedure Code, the defendants above named, file the following written statement.

2. The suit is not maintainable against the 1st defendant, for want of notice under Section 80 of the Code of Civil Procedure.

2. The suit is not one of those provided for in section 2 of Regulation VII of 1913 or in any other enactment in force in Mysore and consequently cannot be taken cognisance of by this Hon'ble Court.

3. The defendants deny the allegations in para 5 of the plaint and affirm that the action of the 2nd defendant in not accepting the candidature of the plaintiffs for the free election, is perfectly legal and justified.

4. The plaintiffs have no cause of action against any of the defendants and it is not correctly stated in para 10 of the plaint.

5. The suit as now framed is not maintainable under section 42 of the Specific Relief Act.

6. The plaintiffs are not entitled to any of the reliefs claimed.

Wherefore it is prayed that the suit be dismissed

With costs.

The defendants pray that this Hon'ble Court may be pleased to try the question of the maintainability of the suit in the first instance.

We the defendants above named do hereby declare that what is stated above is true to the best of our knowledge.